

Whereas the United Nations has authoritatively endorsed and helped to advance progress toward realizing the human rights of persons with disabilities, as exemplified by the United Nations Standard Rules on the Equalization of Opportunities for Persons with Disabilities (adopted by the United Nations General Assembly in Resolution 48/96 of December 20, 1993), which are monitored by a United Nations Special Rapporteur;

Whereas because of the slow and uneven progress of ensuring that persons with disabilities enjoy their universal human rights in law and in practice, every society and the international community remain challenged to identify and implement the processes which best protect the dignity of persons with disabilities and which fully implement their inherent human rights;

Whereas greater and more rapid progress must be achieved toward overcoming the relative invisibility of persons with disabilities in many societies, national laws, and existing international human rights instruments; and

Whereas, accordingly, the United Nations General Assembly in November 2001, adopted an historic resolution to establish an ad hoc committee open to all United Nations member nations to consider proposals for a comprehensive and integral treaty to protect and promote the rights and dignity of persons with disabilities: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that—

(1) the United States should play a leading role in the drafting of a thematic United Nations convention that affirms the human rights and dignity of persons with disabilities, and that—

(A) is consistent with the spirit of the American with Disabilities Act of 1990, the United States Constitution, and other rights enjoyed by United States citizens with disabilities;

(B) promotes inclusion, independence, political enfranchisement, and economic self-sufficiency of persons with disabilities as foundational requirements for any free and just society; and

(C) provides protections that are at least as strong as the rights that are now recognized under international human rights law for other vulnerable populations; and

(2) the President should instruct the Secretary of State to send to the United Nations Ad Hoc Committee meetings a United States delegation that includes individuals with disabilities who are recognized leaders in the United States disability rights movement.

Mr. HARKIN. Mr. President, I rise to submit a concurrent resolution on behalf of myself, Senator CHAFEE and Senator KENNEDY. This resolution deals with an issue that I have been working on for many years in a bipartisan manner. It simply calls on the United States to take a leading role in the drafting of an international convention on the human rights of individuals with disabilities. Such a treaty could improve the lives of over 600 million individuals with disabilities throughout the world.

For the past twenty years, the United States has put politics aside and has taken a lead role in the world toward the understanding that disability rights are human rights. I chaired the Senate's Subcommittee on the Handicapped at the time that the Americans With Disabilities Act was being considered by Congress and was a leading author of the ADA. During

hearings, I heard over and over again stories of people with disabilities suffering from discrimination—not getting a job because of a disability; being locked up in a nursing home or institution because of a disability; not being able to get into schools, restaurants, stores, banks and other places of business because of a disability. This kind of discrimination is wrong. It is wrong in the United States and it is wrong throughout the world.

In 1990, then President Bush signed the ADA into law. He said, "This historic Act is the world's first comprehensive declaration of equality for people with disabilities. Its passage has made the United States the international leader on this human rights issue." The United States did lead the way in 1990, and it has another historic opportunity to lead the way today.

The issue of disability rights is very personal to me. As many of my colleagues know, my brother Frank was deaf. Because of his disability, he was sent to a school for the "deaf and dumb" across the State. Frank said to me, "I may be deaf but I am not dumb." I think of how many children, like Frank, in the world are suffering the effects of this sort of discrimination. How many children are not going to school because they are deaf, or use a wheelchair, or are blind? How many adults with these same disabilities are not working, not earning a living, not participating in civil society?

In recent months, we have all witnessed the situation people with disabilities face in Iraq and in Afghanistan. We have seen footage of the results of the tyranny of Saddam Hussein. We have seen many individuals who have life-long disabilities as a result of his cruelty. Many more are victims of terrorism and cruelty who now suffer the added injury of discrimination.

America has an historic opportunity to help change the lives of these children and adults from around the world and open the doors of opportunity to them. It is time for the world community to come together and write an important new chapter and break down the barriers that prevent people with disabilities from participating in their communities and play an active role in civil society. It is time to say to all of the world that disability rights are human rights, not just in the United States, but everywhere in the world. I strongly urge the Bush Administration to take a lead and work with other member Nations in the drafting of this resolution. Under the auspices of the United Nations, member states are scheduled to meet next week in New York to consider proposals for a comprehensive treaty to protect and promote the rights and dignity of persons with disabilities. I cannot think of a more worthwhile role the Administration could play than to be a leader on this issue and to fully support a convention on the rights of individuals with disabilities.

America's leadership in this process will help create a treaty that is both well intentioned and relevant, one that may fulfill its potential and vastly improve the perceptions, treatment and conditions of people with disabilities throughout the world. The United States must continue to lead the way in this important international effort.

AMENDMENTS SUBMITTED & PROPOSED

SA 871. Ms. LANDRIEU (for herself, Mr. SPECTER, Mr. BINGAMAN, Ms. COLLINS, Mr. ALEXANDER, and Mr. BUNNING) proposed an amendment to the bill S. 14, to enhance the energy security of the United States, and for other purposes.

SA 872. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 873. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 874. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 875. Mr. WYDEN (for himself, Mr. SUNUNU, Mr. BINGAMAN, Mr. ENSIGN, Mr. REID, Mr. FEINGOLD, Mr. JEFFORDS, and Ms. SNOWE) proposed an amendment to the bill S. 14, supra.

SA 876. Mrs. FEINSTEIN (for herself, Mr. FITZGERALD, Mr. HARKIN, Mr. LUGAR, Ms. CANTWELL, Mr. WYDEN, Mrs. BOXER, and Mr. LEAHY) proposed an amendment to the bill S. 14, supra.

SA 877. Mr. REID proposed an amendment to amendment SA 876 proposed by Mrs. FEINSTEIN (for herself, Mr. FITZGERALD, Mr. HARKIN, Mr. LUGAR, Ms. CANTWELL, Mr. WYDEN, Mrs. BOXER, and Mr. LEAHY) to the bill S. 14, supra.

TEXT OF AMENDMENTS

SA 871. Ms. LANDRIEU (for herself, Mr. SPECTER, Mr. BINGAMAN, Ms. COLLINS, Mr. ALEXANDER, and Mr. BUNNING) proposed an amendment to the bill S. 14, to enhance the energy security of the United States, and for other purposes; as follows:

On page 238, between lines 2 and 3, insert the following:

Subtitle E—Measures to Conserve Petroleum
SEC. ____ . REDUCTION OF DEPENDENCE ON IMPORTED PETROLEUM.

(a) REPORT.—

(1) IN GENERAL.—Not later than February 1, 2004, and annually thereafter, the President shall submit to Congress a report, based on the most recent edition of the Annual Energy Outlook published by the Energy Information Administration, assessing the progress made by the United States toward the goal of reducing dependence on imported petroleum sources by 2013.

(2) CONTENTS.—The report under subsection (a) shall—

(A) include a description of the implementation, during the previous fiscal year, of provisions under this Act relating to domestic crude petroleum production;

(B) assess the effectiveness of those provisions in meeting the goal described in paragraph (1); and

(C) describe the progress in developing and implementing measures under subsection (b).

(b) MEASURES TO REDUCE IMPORT DEPENDENCE THROUGH INCREASED DOMESTIC PETROLEUM CONSERVATION.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the President shall develop and implement measures to conserve petroleum in end-uses throughout the economy of the United States sufficient to reduce total demand for petroleum in the United States by 1,000,000 barrels per day from the amount projected for calendar year 2013 in the reference case contained in the report of the Energy Information Administration entitled "Annual Energy Outlook 2003".

(2) CONTENTS.—The measures under paragraph (1) shall be designed to ensure continued reliable and affordable energy for consumers.

(3) IMPLEMENTATION.—The measures under paragraph (1) shall be implemented under existing authorities of appropriate Federal executive agencies identified by the President.

SA 872. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 165 after line 14 insert:

(d) LICENSE TERMS.—Section 6 and section 101(i) of the Federal Power Act (16 U.S.C. 799 and 803(i) are each amended by striking "fifty" and inserting "thirty" and section 15(e) of such Act is amended by striking "not less than 30 years, nor more than 50" and inserting "not more than 15."

SA 873. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 165 after line 14 insert:

(d) ANNUAL LICENSES.—Section 15(a)(1) of the Federal Power Act (16 U.S.C. 808(a)(1) is amended by adding the following at the end thereof: "Annual licenses shall contain such terms and conditions appropriate for the duration of the annual license which are identified by the Secretary of the Interior and the Secretary of Agriculture as necessary for the protection and utilization of the reservation within which the project is located; by the Secretary of the Interior and the Secretary of Commerce for the protection and enhancement of fish and wildlife, including related spawning grounds and habitat; and by the Governor of the State in which the project is located for compliance with water quality standards and other legal requirements for beneficial uses of affected waters. The terms of any new license for a project shall be reduced by one year for each annual license issued for such project."

SA 874. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 17, strike line 11 and all that follows through line 17 and insert:

"(f) EFFECT ON EXISTING LAW.—

"(i) Nothing in this section shall relieve the Secretary of any obligation to conduct environmental or other reviews or take any other actions required of the Secretary as of the date of enactment of this section for activities on tribal lands pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 2901 et seq.); the Clean Air Act (42

U.S.C. 7401 et seq.); the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.); the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.); the Endangered Species Act (16 U.S.C. 1531 et seq.); or any other Federal law for the protection of the environment or environmental quality.

"(2) Nothing in this section affects the application of—

"(A) the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 et seq.);

"(B) the Atomic Energy Act of 1954 (42 U.S.C. 2011) or any Federal law respecting nuclear or radioactive waste or mining of radioactive materials; or

"(C) except as otherwise provided in this title, the Indian Mineral Development Act of 1982 (25 U.S.C. 2101 et seq.)."

SA 875. Mr. WYDEN (for himself, Mr. SUNUNU, Mr. BINGAMAN, Mr. ENSIGN, Mr. REID, Mr. FEINGOLD, Mr. JEFFORDS, and Ms. SNOWE) proposed an amendment to the bill S. 14, to enhance the energy security of the United States, and for other purposes; as follows:

Strike subtitle B of title IV.

SA 876. Mrs. FEINSTEIN (for herself, Mr. FITZGERALD, Mr. HARKIN, Mr. LUGAR, Ms. CANTWELL, Mr. WYDEN, Mrs. BOXER, and Mr. LEAHY) proposed an amendment to the bill S. 14, to enhance the energy security of the United States, and for other purposes; as follows:

At the end, add the following:

TITLE —ENERGY MARKET OVERSIGHT
SEC. —01. JURISDICTION OF THE FEDERAL ENERGY REGULATORY COMMISSION OVER ENERGY TRADING MARKETS.

Section 402 of the Department of Energy Organization Act (42 U.S.C. 7172) is amended by adding at the end the following:

"(i) JURISDICTION.—

"(1) REFERRAL.—

"(A) IN GENERAL.—To the extent that the Commission determines that any contract that comes before the Commission is not under the jurisdiction of the Commission, the Commission shall refer the contract to the appropriate Federal agency.

"(B) NO EFFECT ON AUTHORITY.—The authority of the Commission or any Federal agency shall not be limited or otherwise affected based on whether the Commission has or has not referred a contract described in subparagraph (A).

"(2) MEETINGS.—A designee of the Commission shall meet quarterly with a designee of the Commodity Futures Trading Commission, the Securities Exchange Commission, the Federal Trade Commission, the Department of Justice, the Department of the Treasury, and the Federal Reserve Board to discuss—

"(A) conditions and events in energy trading markets; and

"(B) any changes in Federal law (including regulations) that may be appropriate to regulate energy trading markets.

"(3) LIAISON.—The Commission shall, in cooperation with the Commodity Futures Trading Commission, maintain a liaison between the Commission and the Commodity Futures Trading Commission."

SEC. —02. INVESTIGATIONS BY THE FEDERAL ENERGY REGULATORY COMMISSION UNDER THE NATURAL GAS ACT AND FEDERAL POWER ACT.

(a) INVESTIGATIONS UNDER THE NATURAL GAS ACT.—Section 14(c) of the Natural Gas Act (15 U.S.C. 717m(c)) is amended—

(i) by striking "(c) For the purpose of" and inserting the following:

"(c) TAKING OF EVIDENCE.—

"(1) IN GENERAL.—For the purpose of";

(2) by striking "Such attendance" and inserting the following:

"(2) NO GEOGRAPHIC LIMITATION.—The attendance";

(3) by striking "Witnesses summoned" and inserting the following:

"(3) EXPENSES.—Any witness summoned"; and

(4) by adding at the end the following:

"(4) AUTHORITIES.—The exercise of the authorities of the Commission under this subsection shall not be subject to the consent of the Office of Management and Budget."

(b) INVESTIGATIONS UNDER THE FEDERAL POWER ACT.—Section 307(b) of the Federal Power Act (16 U.S.C. 825f(b)) is amended—

(1) by striking "(b) For the purpose of" and inserting the following:

"(b) TAKING OF EVIDENCE.—

"(1) IN GENERAL.—For the purpose of";

(2) by striking "Such attendance" and inserting the following:

"(2) NO GEOGRAPHIC LIMITATION.—The attendance";

(3) by striking "Witnesses summoned" and inserting the following:

"(3) EXPENSES.—Any witness summoned"; and

(4) by adding at the end the following:

"(4) AUTHORITIES.—The exercise of the authorities of the Commission under this subsection shall not be subject to the consent of the Office of Management and Budget."

SEC. —03. CONSULTING SERVICES.

Title IV of the Department of Energy Organization Act (42 U.S.C. 7171 et seq.) is amended by adding at the end the following: "**SEC. 408. CONSULTING SERVICES.**

"(a) IN GENERAL.—The Chairman may contract for the services of consultants to assist the Commission in carrying out any responsibilities of the Commission under this Act, the Federal Power Act (16 U.S.C. 791a et seq.), or the Natural Gas Act (15 U.S.C. 717 et seq.).

"(b) APPLICABLE LAW.—In contracting for consultant services under subsection (a), if the Chairman determines that the contract is in the public interest, the Chairman, in entering into a contract, shall not be subject to—

"(1) section 5, 253, 253a, or 253b of title 41, United States Code; or

"(2) any law (including a regulation) relating to conflicts of interest."

SEC. —04. LEGAL CERTAINTY FOR TRANSACTIONS IN EXEMPT COMMODITIES.

Section 2 of the Commodity Exchange Act (7 U.S.C. 2) is amended by striking subsections (g) and (h) and inserting the following:

"(g) OFF-EXCHANGE TRANSACTIONS IN EXEMPT COMMODITIES.—

"(1) DEFINITIONS.—In this subsection:

"(A) COVERED ENTITY.—The term 'covered entity' means—

"(i) an electronic trading facility; and

"(ii) a dealer market.

"(B) DEALER MARKET.—

"(i) IN GENERAL.—The term 'dealer market' has the meaning given the term by the Commission.

"(ii) INCLUSIONS.—The term 'dealer market' includes each bilateral or multilateral agreement, contract, or transaction determined by the Commission, regardless of the means of execution of the agreement, contract, or transaction.

"(2) EXEMPTION FOR TRANSACTIONS NOT ON TRADING FACILITIES.—Except as provided in paragraph (4), nothing in this Act shall apply to an agreement, contract, or transaction in an exempt commodity that—

"(A) is entered into solely between persons that are eligible contract participants at the

time the persons enter into the agreement, contract, or transaction; and

“(B) is not entered into on a trading facility.

“(3) EXEMPTION FOR TRANSACTIONS ON COVERED ENTITIES.—Except as provided in paragraphs (4), (5), and (7), nothing in this Act shall apply to an agreement, contract, or transaction in an exempt commodity that is—

“(A) entered into on a principal-to-principal basis solely between persons that are eligible contract participants at the time at which the persons enter into the agreement, contract, or transaction; and

“(B) executed or traded on a covered entity.

“(4) REGULATORY AND OVERSIGHT REQUIREMENTS.—

“(A) IN GENERAL.—An agreement, contract, or transaction described in paragraph (2) or (3) (and the covered entity on which the agreement, contract, or transaction is executed) shall be subject to—

“(i) sections 5b, 12(e)(2)(B), and 22(a)(4);

“(ii) the provisions relating to manipulation and misleading transactions under sections 4b, 4c(a), 4c(b), 4o, 6(c), 6(d), 6c, 6d, 8a, and 9(a)(2); and

“(iii) the provisions relating to fraud and misleading transactions under sections 4b, 4c(a), 4c(b), 4o, and 8a.

“(B) TRANSACTIONS EXEMPTED BY COMMISSION ACTION.—Notwithstanding any exemption by the Commission under section 4(c), an agreement, contract, or transaction described in paragraph (2) or (3) shall be subject to the authorities in clauses (i), (ii), and (iii) of subparagraph (A).

“(5) COVERED ENTITIES.—An agreement, contract, or transaction described in paragraph (3) and the covered entity on which the agreement, contract, or transaction is executed, shall be subject to (to the extent the Commission determines appropriate)—

“(A) section 5a, to the extent provided in section 5a(g) and 5d;

“(B) consistent with section 4i, a requirement that books and records relating to the business of the covered entity on which the agreement, contract, or transaction is executed be made available to representatives of the Commission and the Department of Justice for inspection for a period of at least 5 years after the date of each transaction, including—

“(i) information relating to data entry and transaction details sufficient to enable the Commission to reconstruct trading activity on the covered entity; and

“(ii) the name and address of each participant on the covered entity authorized to enter into transactions; and

“(C) in the case of a transaction or covered entity performing a significant price discovery function for transactions in the cash market for the underlying commodity, subject to paragraph (6), the requirements (to the extent the Commission determines appropriate by regulation) that—

“(i) information on trading volume, settlement price, open interest, and opening and closing ranges be made available to the public on a daily basis;

“(ii) notice be provided to the Commission in such form as the Commission may require;

“(iii) reports be filed with the Commission (such as large trader position reports); and

“(iv) consistent with section 4i, books and records be maintained relating to each transaction in such form as the Commission may require for a period of at least 5 years after the date of the transaction.

“(6) PROPRIETARY INFORMATION.—In carrying out paragraph (5)(C), the Commission shall not—

“(A) require the real-time publication of proprietary information;

“(B) prohibit the commercial sale or licensing of real-time proprietary information; and

“(C) publicly disclose information regarding market positions, business transactions, trade secrets, or names of customers, except as provided in section 8.

“(7) NOTIFICATION, DISCLOSURES, AND OTHER REQUIREMENTS FOR COVERED ENTITIES.—A covered entity subject to the exemption under paragraph (3) shall (to the extent the Commission determines appropriate)—

“(A) notify the Commission of the intention of the covered entity to operate as a covered entity subject to the exemption under paragraph (3), which notice shall include—

“(i) the name and address of the covered entity and a person designated to receive communications from the Commission;

“(ii) the commodity categories that the covered entity intends to list or otherwise make available for trading on the covered entity in reliance on the exemption under paragraph (3);

“(iii) certifications that—

“(I) no executive officer or member of the governing board of, or any holder of a 10 percent or greater equity interest in, the covered entity is a person described in any of subparagraphs (A) through (H) of section 8a(2);

“(II) the covered entity will comply with the conditions for exemption under this subsection; and

“(III) the covered entity will notify the Commission of any material change in the information previously provided by the covered entity to the Commission under this paragraph; and

“(iv) the identity of any derivatives clearing organization to which the covered entity transmits or intends to transmit transaction data for the purpose of facilitating the clearance and settlement of transactions conducted on the covered entity subject to the exemption under paragraph (3);

“(B)(i) provide the Commission with access to the trading protocols of the covered entity and electronic access to the covered entity with respect to transactions conducted in reliance on the exemption under paragraph (3); and

“(ii) on special call by the Commission, provide to the Commission, in a form and manner and within the period specified in the special call, such information relating to the business of the covered entity as a covered entity exempt under paragraph (3), including information relating to data entry and transaction details with respect to transactions entered into in reliance on the exemption under paragraph (3), as the Commission may determine appropriate—

“(I) to enforce the provisions specified in paragraph (4);

“(II) to evaluate a systemic market event; or

“(III) to obtain information requested by a Federal financial regulatory authority to enable the authority to fulfill the regulatory or supervisory responsibilities of the authority;

“(C)(i) on receipt of any subpoena issued by or on behalf of the Commission to any foreign person that the Commission believes is conducting or has conducted transactions in reliance on the exemption under paragraph (3) on or through the covered entity relating to the transactions, promptly notify the foreign person of, and transmit to the foreign person, the subpoena in a manner that is reasonable under the circumstances, or as specified by the Commission; and

“(ii) if the Commission has reason to believe that a person has not timely complied with a subpoena issued by or on behalf of the Commission under clause (i), and the Commission in writing directs that a covered en-

tity relying on the exemption under paragraph (3) deny or limit further transactions by the person, deny that person further trading access to the covered entity or, as applicable, limit that access of the person to the covered entity for liquidation trading only;

“(D) comply with the requirements of this subsection applicable to the covered entity and require that each participant, as a condition of trading on the covered entity in reliance on the exemption under paragraph (3), agree to comply with all applicable law;

“(E) certify to the Commission that the covered entity has a reasonable basis for believing that participants authorized to conduct transactions on the covered entity in reliance on the exemption under paragraph (3) are eligible contract participants;

“(F) maintain sufficient capital, commensurate with the risk associated with transactions conducted on the covered entity; and

“(G) not represent to any person that the covered entity is registered with, or designated, recognized, licensed, or approved by the Commission.

“(8) HEARING.—A person named in a subpoena referred to in paragraph (7)(C) that believes the person is or may be adversely affected or aggrieved by action taken by the Commission under this subsection, shall have the opportunity for a prompt hearing after the Commission acts under procedures that the Commission shall establish by rule, regulation, or order.

“(9) PRIVATE REGULATORY ORGANIZATIONS.—

“(A) DELEGATION OF FUNCTIONS UNDER CORE PRINCIPLES.—A covered entity may comply with any core principle under subparagraph (B) that is applicable to the covered entity through delegation of any relevant function to—

“(i) a registered futures association under section 17; or

“(ii) another registered entity.

“(B) CORE PRINCIPLES.—The Commission may establish core principles requiring a covered entity to monitor trading to—

“(i) prevent fraud and manipulation;

“(ii) prevent price distortion and disruptions of the delivery or cash settlement process;

“(iii) ensure that the covered entity has adequate financial, operational, and managerial resources to discharge the responsibilities of the covered entity; and

“(iv) ensure that all reporting, record-keeping, notice, and registration requirements under this subsection are discharged in a timely manner.

“(C) RESPONSIBILITY.—A covered entity that delegates a function under subparagraph (A) shall remain responsible for carrying out the function.

“(D) NONCOMPLIANCE.—If a covered entity that delegates a function under subparagraph (A) becomes aware that a delegated function is not being performed as required under this Act, the covered entity shall promptly take action to address the non-compliance.

“(E) VIOLATION OF CORE PRINCIPLES.—

“(i) IN GENERAL.—If the Commission determines, on the basis of substantial evidence, that a covered entity is violating any applicable core principle specified in subparagraph (B), the Commission shall—

“(I) notify the covered entity in writing of the determination; and

“(II) afford the covered entity an opportunity to make appropriate changes to bring the covered entity into compliance with the core principles.

“(ii) FAILURE TO MAKE CHANGES.—If, not later than 30 days after receiving a notification under clause (i)(I), a covered entity fails to make changes that, as determined by the Commission, are necessary to comply with the core principles, the Commission may

take further action in accordance with this Act.

"(F) RESERVATION OF EMERGENCY AUTHORITY.—Nothing in this paragraph limits or affects the emergency powers of the Commission provided under section 8a(9).

"(10) NO EFFECT ON OTHER AUTHORITY.—This subsection shall not affect the authority of the Federal Energy Regulatory Commission under the Federal Power Act (16 U.S.C. 791a et seq.) or the Natural Gas Act (15 U.S.C. 717 et seq.)."

SEC. 05. PROHIBITION OF FRAUDULENT TRANSACTIONS.

Section 4b of the Commodity Exchange Act (7 U.S.C. 6b) is amended by striking subsection (a) and inserting the following:

"(a) PROHIBITION.—It shall be unlawful for any person, directly or indirectly, in or in connection with any account, or any offer to enter into, the entry into, or the confirmation of the execution of, any agreement, contract, or transaction subject to this Act—

"(1) to cheat or defraud or attempt to cheat or defraud any person (but this paragraph does not impose on parties to transactions executed on or subject to the rules of designated contract markets or registered derivative transaction execution facilities a legal duty to provide counterparties or any other market participants with any material market information);

"(2) willfully to make or cause to be made to any person any false report or statement, or willfully to enter or cause to be entered for any person any false record (but this paragraph does not impose on parties to transactions executed on or subject to the rules of designated contract markets or registered derivative transaction execution facilities a legal duty to provide counterparties or any other market participants with any material market information);

"(3) willfully to deceive or attempt to deceive any person by any means whatsoever (but this paragraph does not impose on parties to transactions executed on or subject to the rules of designated contract markets or registered derivative transaction execution facilities a legal duty to provide counterparties or any other market participants with any material market information); or

"(4) except as permitted in written rules of a board of trade designated as a contract market or derivatives transaction execution facility on which the agreement, contract, or transaction is traded and executed—

"(A) to bucket an order;

"(B) to fill an order by offset against 1 or more orders of another person; or

"(C) willfully and knowingly, for or on behalf of any other person and without the prior consent of the person, to become—

"(i) the buyer with respect to any selling order of the person; or

"(ii) the seller with respect to any buying order of the person."

SEC. 06. FERC LIAISON.

Section 2(a)(9) of the Commodity Exchange Act (7 U.S.C. 2(a)(9)) is amended by adding at the end the following:

"(C) LIAISON WITH FEDERAL ENERGY REGULATORY COMMISSION.—The Commission shall, in cooperation with the Federal Energy Regulatory Commission, maintain a liaison between the Commission and the Federal Energy Regulatory Commission."

SEC. 07. CRIMINAL AND CIVIL PENALTIES.

(a) ENFORCEMENT POWERS OF COMMISSION.—Section 6(c) of the Commodity Exchange Act (7 U.S.C. 9, 15) is amended in paragraph (3) of the tenth sentence—

(1) by inserting "(A)" after "assess such person"; and

(2) by inserting after "each such violation" the following: ", or (B) in any case of manip-

ulation of, or attempt to manipulate, the price of any commodity, a civil penalty of not more than the greater of \$1,000,000 or triple the monetary gain to such person for each such violation."

(b) MANIPULATIONS AND OTHER VIOLATIONS.—Section 6(d) of the Commodity Exchange Act (7 U.S.C. 13b) is amended in the first sentence—

(1) by striking "paragraph (a) or (b) of section 9 of this Act" and inserting "subsection (a), (b), or (f) of section 9"; and

(2) by striking "said paragraph 9(a) or 9(b)" and inserting "subsection (a), (b), or (f) of section 9".

(c) NONENFORCEMENT OF RULES OF GOVERNMENT OR OTHER VIOLATIONS.—Section 6b of the Commodity Exchange Act (7 U.S.C. 13a) is amended—

(1) in the first sentence—

(A) by inserting "section 2(g)(9)," after "sections 5 through 5c,"; and

(B) by inserting before the period at the end the following: ", or, in any case of manipulation of, or an attempt to manipulate, the price of any commodity, a civil penalty of not more than \$1,000,000 for each such violation"; and

(2) in the second sentence, by inserting before the period at the end the following: ", except that if the failure or refusal to obey or comply with the order involved any offense under section 9(f), the registered entity, director, officer, agent, or employee shall be guilty of a felony and, on conviction, shall be subject to penalties under section 9(f)".

(d) ACTION TO ENJOIN OR RESTRAIN VIOLATIONS.—Section 6c(d) of the Commodity Exchange Act (7 U.S.C. 13a-1(d)) is amended by striking "(d)" and all that follows through the end of paragraph (1) and inserting the following:

"(d) CIVIL PENALTIES.—In any action brought under this section, the Commission may seek and the court shall have jurisdiction to impose, on a proper showing, on any person found in the action to have committed any violation—

"(1) a civil penalty in the amount of not more than the greater of \$100,000 or triple the monetary gain to the person for each violation; or

"(2) in any case of manipulation of, or an attempt to manipulate, the price of any commodity, a civil penalty in the amount of not more than the greater of \$1,000,000 or triple the monetary gain to the person for each violation."

(e) VIOLATIONS GENERALLY.—Section 9 of the Commodity Exchange Act (7 U.S.C. 13) is amended—

(1) by redesignating subsection (f) as subsection (e); and

(2) by adding at the end the following:

"(f) PRICE MANIPULATION.—It shall be a felony punishable by a fine of not more than \$1,000,000 for each violation or imprisonment for not more than 10 years, or both, together with the costs of prosecution, for any person—

"(1) to manipulate or attempt to manipulate the price of any commodity in interstate commerce, or for future delivery on or subject to the rules of any registered entity;

"(2) to corner or attempt to corner any such commodity;

"(3) knowingly to deliver or cause to be delivered (for transmission through the mails or interstate commerce by telegraph, telephone, wireless, or other means of communication) false or misleading or knowingly inaccurate reports concerning market information or conditions that affect or tend to affect the price of any commodity in interstate commerce; or

"(4) knowingly to violate section 4 or 4b, any of subsections (a) through (e) of subsection 4c, or section 4h, 4o(1), or 19."

SEC. 08. CONFORMING AMENDMENTS.

(a) Section 2 of the Commodity Exchange Act (7 U.S.C. 2) is amended—

(1) in subsection (d)(1), by striking "section 5b" and inserting "section 5a(g), 5b,";

(2) in subsection (e)—

(A) in paragraph (1), by striking ", 2(g), or 2(h)(3)"; and

(B) in paragraph (3), by striking "2(h)(5)" and inserting "2(g)(7)";

(3) by redesignating subsection (i) as subsection (h); and

(4) in subsection (h) (as redesignated by subparagraph (C))—

(A) in paragraph (1)—

(i) by striking "No provision" and inserting "IN GENERAL.—Subject to subsection (g), no provision"; and

(ii) in subparagraph (A)—

(I) by striking "section 2(c), 2(d), 2(e), 2(f), or 2(g) of this Act" and inserting "subsection (c), (d), (e), or (f)"; and

(II) by striking "section 2(h)" and inserting "subsection (g)"; and

(B) in paragraph (2), by striking "No provision" and inserting "IN GENERAL.—Subject to subsection (g), no provision".

(b) Section 4i of the Commodity Exchange Act (7 U.S.C. 6i) is amended in the first sentence by inserting ", or pursuant to an exemption under section 4(c)" after "transaction execution facility".

(c) Section 8a(9) of the Commodity Exchange Act (7 U.S.C. 12a(9)) is amended—

(1) by inserting "or covered entity under section 2(g)" after "direct the contract market";

(2) by striking "on any futures contract"; and

(3) by inserting "or covered entity under section 2(g)" after "given by a contract market".

SA 877. Mr. REID proposed an amendment to amendment SA 876 proposed by Mrs. FEINSTEIN (for herself, Mr. FITZGERALD, Mr. HARKIN, Mr. LUGAR, Ms. CANTWELL, Mr. WYDEN, Mrs. BOXER, and Mr. LEAHY) to the bill S. 14, to enhance the energy security of the United States, and for other purposes; as follows:

On page 17 after line 25.

"(10) APPLICABILITY.—This subsection does not apply to any agreement, contract, or transaction in metals."

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. FITZGERALD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Tuesday, June 10, 2003, at 9:30 a.m., in closed session to receive testimony on certain intelligence programs.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. FITZGERALD. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on June 10, 2003, at 10:00 a.m. to conduct an oversight hearing on "The Administration's Proposal for Re-authorization of The Federal Public Transportation Program."